

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.622(j),) MB Docket No. 21-155
Table of Allotments, Television Broadcast) RM-11900
Stations (Medford, Oregon))
)

REPORT AND ORDER

(Proceeding Terminated)

Adopted: June 22, 2022

Released: June 22, 2022

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking issued in response to a Petition for Rulemaking filed by KTVL Licensee, LLC (Petitioner), the licensee of KTVL(TV), channel 10, Medford, Oregon (KTVL or Station). The Petitioner has requested the substitution of UHF channel 16 for VHF channel 10 in the Table of Allotments. The Petitioner filed comments in support of the petition, as required by the Commission's rules (rules), reaffirming its commitment to apply for channel 16.

1 Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Medford, Oregon), MB Docket No. 21-155, Notice of Proposed Rulemaking, 35 FCC Rcd 7335 (MB 2021).

2 As noted in the NPRM at n.2, on April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act, and the post-incentive auction transition period ended on July 13, 2020. At the time the NPRM was issued, the Commission had not yet amended its rules to reflect all new full power channel assignments in a revised Table of Allotments. Accordingly, the NPRM referred to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018). The Commission has now adopted the new Table of Allotments, 47 CFR § 73.622(j), and this Report and Order amends the new rule. See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction, GN Docket No. 12-268, Order, FCC 21-111 (rel. Oct. 25, 2021).

3 47 CFR §§ 1.415, 1.419; see also Buffalo, Iola, Normangee, and Madisonville, Texas, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

4 theDove Media, Inc. (theDove), the licensee of low power television station KDSO-LP, channel 16, Medford, Oregon, filed comments in opposition to the rulemaking petition and a counterproposal, alleging, inter alia, that the public interest would not be served because the proposed channel substitution would displace KDSO-LP, and would result in a loss of service to approximately 9,000 persons who now receive KTVL's channel 10 signal. Comments and Counterproposal of theDove Media, Inc., MB Docket No. 21-155 (filed June 10, 2021) (Opposition). theDove further asserted that if the Bureau granted the Petitioner's request, theDove should be permitted to file an application for channel 16 and compete with the Petitioner for a full power television construction permit on channel 16 at Medford. Id. at 6. On May 26, 2022, theDove and the Petitioner filed a Joint Request for Approval of Settlement Agreement, Docket No. 21-155 (filed May 26, 2022) whereby theDove requested dismissal of its Opposition with prejudice, and the Petitioner agreed to reimburse theDove in an amount not to exceed \$23,420 as reimbursement for costs related to theDove's acquisition and construction of a displacement facility on channel 26 at Medford, Oregon. Id. at 2. The parties also agreed that KTVL would not begin operations on channel 16 until KDSO-LP commenced operations on channel 26. Id. The Video Division approved the Joint Request for Approval of Settlement Agreement and dismissed theDove's opposition by letter dated June 22, 2022. Letter from Barbara A. Kreisman,

(continued....)

2. We believe the public interest would be served by substituting channel 16 for channel 10 at Medford, Oregon. The Petitioner states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers, that the reception of VHF signals require larger antennas relative to UHF channels, and that studies suggest a large variability in the performance of indoor antennas, with most performing poorly or not so well receiving VHF channels, compared to UHF channels.⁵ Petitioner further states that the Station has received numerous complaints from viewers unable to receive the Station's over-the-air signal, despite being able to receive signals from other local stations.⁶

3. In addition, the Petitioner states while the proposed channel 16 noise limited contour does not completely encompass the channel 10 noise limited contour, KTVL is a CBS affiliate and there are two other CBS affiliated stations that serve all but 9,355 persons in the noise limited contour loss area.⁷ The Petitioner also submitted an analysis, using the Commission's *TVStudy* software analysis program, demonstrating that after taking into account service provided by other CBS stations, all of the population located with KTVL's channel 10 noise limited contour will continue to receive CBS service, resulting in no loss of network service.⁸

4. As proposed, channel 16 can be substituted for channel 10 at Medford, Oregon, in compliance with the principal community coverage requirements of section 73.625(a) of the rules,⁹ at coordinates 42-04-51.50 N and 122-43-13.00 W. Although the Petitioner's proposal would result in a loss of CBS service from KTVL to 9,355 persons, we find the overall benefits of the proposed channel change outweigh any possible harm to the public interest given the ability of all viewers in the loss area to access CBS network programming from other over-the-air television stations.¹⁰ We also find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules with the following specifications:¹¹

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Medford, Oregon	16	350	1001	499,874

5. Finally, we conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to section 553(d)(3) of the Administrative Procedure Act.¹² An expedited effective date is necessary in this case to ensure that KTVL can operate with improved service to its viewers as quickly as possible.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b) and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED**, That effective immediately upon the date of publication in the Federal

Chief, Video Division, Media Bureau, to KTVL Licensee, LLC and theDove Media, Inc. in MB Docket No. 21-155, dated June 22, 2022.

⁵ *NPRM* at para. 2.

⁶ *Id.*

⁷ *Id.* at para. 3. These are commonly-owned KVAL, Eugene, Oregon and KCBY-TV, Coos Bay, Oregon.

⁸ *Id.*

⁹ 47 CFR § 73.625(a).

¹⁰ *See supra* para. 3 and note 7.

¹¹ 47 CFR §§ 73.616, 73.623.

¹² 5 U.S.C. § 553(d)(3).

Register, the Table of Allotments, section 73.622(j) of the Commission's rules, 47 CFR § 73.622(j), **IS AMENDED**, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Medford, Oregon	5, *8, 12, 16, 26

7. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, KTVL Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 16 in lieu of channel 10.

8. **IT IS FURTHER ORDERED**, That pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

9. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21-155 and RM-11900 **SHALL BE TERMINATED** and its docket closed.

10. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647, Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau